

COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION AND
LIABILITY ACT

14-14-F. Cost Recovery Arbitration

1. **AUTHORITY.** Pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, to refer cost recovery claims for resolution by arbitration, and to represent U.S. Environmental Protection Agency at arbitration hearings, conferences, and negotiations.
2. **TO WHOM DELEGATED.** Regional counsel.
3. **LIMITATIONS.** The delegatee must notify the assistant administrator, Officer of Enforcement and Compliance Assurance, and the AA for Office of Land and Emergency Management, or their designees prior to referring a cost recovery claim for resolution by arbitration. The AAs for OECA and OLEM may waive the notification by memorandum.
4. **REDELEGATION AUTHORITY.**
 - a. The authority to refer cost recovery claims for resolution by arbitration may be redelegated to the branch chief level, or equivalent, and no further.
 - b. The authority to represent EPA at arbitration hearings, conferences, and negotiations may be redelegated to the staff attorney level.
 - c. An official who redelegates an authority retains the right to exercise or withdraw the authority. Redelegated authority may be exercised by any official in the chain of command down to the official to whom it has been specifically redelegated.
5. **ADDITIONAL REFERENCES.**
 - a. CERCLA §§ 104, 107, and 122(h)(2).
 - b. Procedures for referral of cost recovery claims for resolution by arbitration and for representing EPA at arbitration hearings, conferences, and negotiations are published at 40 C.F.R. Part 304, Arbitration Procedures for Small Superfund Cost Recovery Claims.
 - c. Authority to enter into or exercise agency concurrence on non-judicial agreements or administrative orders for the recovery of response costs is delegated in 14-14-D, "Cost Recovery Non-Judicial Agreements and Administrative Consent Orders." Delegation 14-14-D may become applicable in two situations under the arbitration regulation: (i) if the agency seeks to adopt a proposed arbitral decision as an administrative settlement pursuant to Section 122(h)(1) of CERCLA when the arbitration has been converted to a non-binding arbitration because costs increased to a dollar amount in excess of \$500,000, excluding interest, prior to the rendering of the final arbitral decision; or (ii) if the parties to the arbitration settle the claim as an administrative settlement pursuant to Section 122(h)(1) of CERCLA, rather than having the settlement embodied in a proposed arbitral decision. In either instance, if the total response costs at the facility exceed \$500,000, excluding interest,

the agency may not compromise the claim without the prior written approval of the Attorney General.

- d. Authority to enter into or exercise agency concurrence in de minimis settlements under Section 122(g) of CERCLA is delegated in Delegation 14-14-E, "De Minimis Settlement."



Debra H. Thomas
Acting Regional Administrator

APR 29 2019

Date